

CV-S-00-0260



CV-S-00-0260-0001



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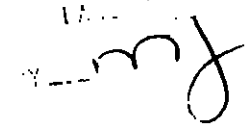


03/01/2000



**ORIGINAL**

1 **ROBERT J. KOSSACK, ESQ.**  
 Nevada Bar No. 2734  
 2 **KOSSACK LAW OFFICES**  
 4535 W. Sahara, Suite 101  
 3 Las Vegas, Nevada 89102  
 Attorney for Plaintiff

Mar 1 11 25 AM '00  


5  
 6 **UNITED STATES DISTRICT COURT**  
 7 **DISTRICT OF NEVADA**

8  
 9 CV-S-00-0260-JBR-LRL

10 NATALIE DURANTE;  
 CLASS OF COMMUNITY COLLEGE  
 SOUTHERN NEVADA STUDENTS,

11 Plaintiffs,

12 v.

13 STATE OF NEVADA; COMMUNITY  
 COLLEGE OF SOUTHERN NEVADA;  
 14 ARLIE J. STOPS,

15 Defendants.

**COMPLAINT**

16  
 17 **COMES NOW**, Plaintiff, NATALIE DURANTE, by and through her  
 18 attorney, ROBERT J. KOSSACK, ESQ., of KOSSACK LAW OFFICES, and  
 19 herein, upon information and belief, complains and alleges as  
 20 follows:

21 **Jurisdiction and Venue**

22 1. Plaintiff's federal claim arises pursuant to  
 23 5 USC § 552a; jurisdiction properly lies in this Court pursuant  
 24 to 28 USC § 1331 (Federal question); and Plaintiffs invoke this  
 25 Court's supplemental jurisdiction pursuant to 28 USC § 1367 to  
 26 hear Plaintiffs' pendent state tort claims; venue properly lies  
 27 in the unofficial Southern Division of the State of Nevada  
 28

1 pursuant to 42 USC § 1391(b)(2) in that a substantial part of the  
2 events or omissions giving rise to Plaintiff's claims occurred in  
3 Clark County, Nevada.

4 **Parties**

5 2. Lead Plaintiff, Natalie Durante ("Durante"), is and was  
6 at all times relevant to this complaint, a citizen of the United  
7 States and a resident of Clark County, Nevada.

8 3. Plaintiffs, Class of Southern Nevada Community College  
9 Students ( the "Class"), are all students who registered at  
10 Community College of Southern Nevada ("CCSN") from January 1,  
11 1998, to the present, who would not have provided their Social  
12 Security account numbers on their applications or their tuition  
13 checks had they been notified whether the disclosure was  
14 mandatory or voluntary, or if they had been notified by what  
15 statutory or other authority such number was solicited, or if  
16 they had been notified what uses would be made of their Social  
17 Security account numbers, or who removed their Social Security  
18 account numbers from their CCSN school records, or who did not  
19 provide their Social Security account numbers on their enrollment  
20 applications or their tuition checks to CCSN.

21 4. Durante sues on behalf of herself and on behalf of the  
22 Class and requests certification of the Class pursuant to FRCP 23  
23 for the following reasons:

24 A. The members of the Class are so numerous that joinder  
25 of all members is impracticable;

26 B. There are questions of law or fact common to the  
27 members of the Class;

28 . . . .

1 C. The claims or defenses of Durante are typical of the  
2 claims or defenses of the members of the Class; and,

3 D. Durante will fairly and adequately protect the  
4 interests of the members of the Class.

5 E. The relief sought for the class is injunctive only.

6 5. Defendant, State of Nevada ("State"), is and was at all  
7 times relevant to this Complaint, a sovereign state of the United  
8 States of America. CCSN is a department and agency of the State.

9 6. Defendant, Arlie J. Stops ("Stops"), is the Associate  
10 Vice President for the CCSN Office of Admissions & Records. At  
11 all times relevant to this Complaint, Stops was acting within the  
12 scope and course of his employment with State and was acting  
13 under color of law.

14 **Statement of facts**

15 7. Durante is registered as a student at CCSN.

16 8. When Durante enrolled to take classes at CCSN in the  
17 Spring of 1998, she and all members of the Class, were asked to  
18 disclose their Social Security account numbers on their  
19 enrollment applications without being informed whether the  
20 disclosure was mandatory or voluntary or by what statutory  
21 authority their Social Security account numbers were solicited or  
22 for what uses would be made of them. As a result, Durante and  
23 all or most other members of the Class, provided their Social  
24 Security account numbers on their CCSN enrollment applications.

25 9. Durante and all other members of the Class were also  
26 requested to disclose their Social Security account numbers on  
27 their tuition checks without being informed whether the  
28 disclosure was mandatory or voluntary or by what statutory

1 authority their Social Security account numbers were solicited or  
2 for what uses would be made of them. As a result, Durante and  
3 all or most of the other members of the Class provided their  
4 Social Security account numbers on their CCSN tuition checks.

5 10. Durante then learned the hazards of giving out her  
6 Social Security account number and of the benefits of maintaining  
7 her privacy, and on or about April, 1999, Durante was  
8 inconvenienced at needing to remove her Social Security account  
9 number from her CCSN school records. Other members of the Class  
10 also concerned with their privacy who removed their Social  
11 Security account number from their CCSN school records were  
12 similarly inconvenienced.

13 11. Because of a CCSN records system administered by Stops,  
14 Durante and all other members of the Class who removed their  
15 Social Security numbers from their CCSN school records were  
16 denied the following rights, benefits and/or privileges provided  
17 by law and granted or provided other CCSN students:

18 A. Durante and such other members of the Class could no  
19 longer use the CCSN telephone or WEB registration system to  
20 enroll in classes at CCSN.

21 B. Durante and such other members of the Class could no  
22 longer use the CCSN telephone or WEB registration system to drop  
23 classes at CCSN.

24 C. Durante and such other members of the Class could no  
25 longer use the CCSN telephone or WEB registration system to find  
26 out their individual grades at CCSN.

27 12. As a result of the CCSN records system administered by  
28 Stops, Durante has been inconvenienced on several occasions from

1 not being able to enroll in classes or find out her CCSN grades  
2 over the telephone, and other members of the Class who also  
3 removed their Social Security account numbers from their CCSN  
4 records have also been similarly inconvenienced by not being able  
5 to enroll in class, drop a class and/or find out their grades  
6 over the telephone or computer Internet.

7 13. As a result of the manner in which Stops administered  
8 and has been administering the CCSN Office of Admissions and  
9 Records as described herein, Durante and other members of the  
10 Class have been caused needless worry and inconvenience, and  
11 Durante has been thereby caused damaged in an amount in excess of  
12 \$1,000.00.

13 **First Cause of Action**  
14 **(Permanent Injunctive Relief)**

15 14. 5 USC § 552a states in pertinent part:

16 Any...State...agency which requests an  
17 individual to disclose his social security  
18 account number shall inform that individual  
19 whether that disclosure is mandatory or  
20 voluntary, by what statutory or other  
21 authority such number is solicited, and what  
22 uses will be made of it.

23 15. 5 USC § 552a states in pertinent part:

24 It shall be unlawful for any...State...agency  
25 to deny to any individual any right, benefit,  
26 or privilege provided by law because of such  
27 individual's refusal to disclose his social  
28 security account number.

16. The actions of Stops and the policies and procedures of  
CCSN's Admissions and Records Department violate the provisions  
of 5 USC § 552a.

17. Durante and the members of the Class are entitled to a  
permanent injunction prohibiting Stops from administering the

1 CCSN Office of Admissions and Records in such a manner that  
2 Durante and other members of the Class and future CCSN student  
3 applicants are requested to disclose their Social Security  
4 account numbers without being first notified whether the  
5 disclosure is mandatory or voluntary, by what statutory or other  
6 authority such number is solicited, and what uses will be made of  
7 it.

8 18. Durante and the members of the Class are entitled to a  
9 permanent injunction prohibiting Stops from administering the  
10 CCSN Office of Admissions and Records so as to require Durante  
11 and other members of the Class from needing to provide their  
12 Social Security account number in order to use the CCSN telephone  
13 and WEB registration system to enroll in classes, drop classes or  
14 find out their grades.

15 19. Durante is entitled to an award of costs and attorney's  
16 fees pursuant to 5 USC § 552a.

17 **Second Cause of Action**  
18 **(42 USC § 1983)**

19 20. Stops under color of law has subjected Durante to the  
20 deprivation of rights secured by the laws of the United States of  
21 America causing her damages as described herein for which Stops  
22 is liable pursuant to 42 USC § 1983.

23 21. Durante and the members of the Class are entitled to an  
24 injunction as described in paragraphs 17 and 18 herein pursuant  
25 to 42 USC § 1983.

26 22. Durante is entitled to costs and attorney's fees  
27 pursuant to 42 USC § 1988.

28 . . . .

1        23. Stops acted pursuant to Nevada and CCSN policy in  
 2 violating the federal statutory rights of Durante and the members  
 3 of the Class and, therefore, Nevada is jointly and severally  
 4 liable with Stops for the damages, injunctive relief, costs and  
 5 attorney's fees requested herein pursuant to 42 USC § 1983 and  
 6 42 USC § 1988.

7            **Third Cause of Action**

8        24. Stops negligently violated 5 USC § 552a proximately  
 9 causing Durante damages as described herein.

10       25. Stops acted outside the scope of his employment with  
 11 State and/or acted wantonly or, alternatively, Stops acted within  
 12 the scope of his employment with State and did not act wantonly,  
 13 or any combination thereof, as may be determined by a jury at  
 14 time of trial pursuant to NRS 41.03475 and 41.0348.

15       26. If Stops was acting within the scope of his employment  
 16 with State and was not acting wantonly, then State is jointly and  
 17 severally liable for the damages caused Durante by the negligent  
 18 actions or inactions of Stops under the doctrine of *respondeat*  
 19 *superior* and pursuant to Chapter 41 of the Nevada Revised  
 20 Statutes.

21           **Prayer for relief**

22       27. **Wherefore**, Plaintiff Durante and all other members of  
 23 the Class pray this Honorable Court grant them judgment against  
 24 Defendants as follows:

25       28. A declaration that Stops' administration of the CCSN  
 26 Office of Admissions and Records violates 5 USC § 552a.

27       . . . . .

28       . . . . .



1           29. A permanent injunction requiring Stops administer the  
2 CCSN Office of Admissions and Records in conformance with the  
3 following guidelines:

4           A. That any person being requested to provide their Social  
5 Security account number to CCSN be notified whether such  
6 disclosure is mandatory or voluntary, by what statutory or other  
7 authority such number is solicited, and what uses will be made of  
8 it.

9           B. That any person not providing their Social Security  
10 account number to CCSN or who has removed it from their CCSN  
11 records not be denied any right, benefit, or privilege provided  
12 by law to other CCSN students who provided their Social Security  
13 account number to CCSN, including, but not limited to, the  
14 ability to access the CCSN telephone and WEB registration systems  
15 to enroll in classes, drop classes or find out their grades,  
16 either by assigning such students a separate password or by some  
17 other method.

18           30. General damages to Durante in an amount in excess of  
19 \$1,000.00.

20           31. Prejudgment interest at the legal rate from the time of  
21 the service of this Complaint upon the Defendants.

22           32. Costs of suit.

23           33. Reasonable attorney's fees.

24           34. Post judgment interest at the legal rate from the time  
25 of judgment.

26 . . . .

27 . . . .

28 . . . .

1 35. For such other and further relief as this Honorable  
2 Court deems just, equitable and proper under the circumstances.

3 Dated this 29th day of February, 2000.

4 KOSSACK LAW OFFICES

5  
6 By: *Robert J. Kossack*

7 ROBERT J. KOSSACK, ESQ.  
8 Nevada Bar No. 2734  
9 4535 W. Sahara, Suite 101  
10 Las Vegas, Nevada 89102  
11 (702) 253-7068  
12 Attorney for Plaintiff,  
13 Durante and the Class

14 VERIFICATION

15 STATE OF NEVADA)  
16 ) ss.  
17 COUNTY OF CLARK)

18 I, NATALIE DURANTE, being first duly sworn, depose and say:

19 I am a Plaintiff in the above-entitled action; I have read  
20 the foregoing Complaint and know the contents thereof; the same  
21 is true of my knowledge except as to those matters therein stated  
22 on information and belief and, as to those matters, I believe  
23 them to be true.

24 *Natalie Durante*  
25 NATALIE DURANTE

26 SUBSCRIBED and SWORN to before  
27 me this 29th day of February, 2000.

28 *Michelle Pozucek*  
NOTARY PUBLIC in and for said  
County and State

